

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:

BENEDETTO PAVONE and
NICOLE R. PAVONE,

Debtors

Chapter 13

Case No. 18-10261 (JKF)

**OBJECTION OF STATE FINANCIAL NETWORK
TO CONFIRMATION OF THE CHAPTER 13 PLAN**

TO: THE HONORABLE JEAN K. FITZSIMON,
UNITED STATES BANKRUPTCY JUDGE:

State Financial Network (“SFN”), by and through its undersigned attorneys, hereby objects to confirmation of the Chapter 13 Plan dated February 26, 2018 (the “Plan”) proposed by Benedetto Pavone and Nicole R. Pavone (together, the “Debtors”), and in support thereof represents as follows:

BACKGROUND

1. On or about January 8, 2015, Franklin Mint Federal Credit Union (“FMFCU”) made certain loans, advances, and extensions of credit to the Debtors in the amount of \$260,000 (the “Loan”) pursuant to the terms of that certain Promissory Note dated January 8, 2015 (the “Note”).

2. In consideration for the Loan, the Debtors executed and delivered to FMFCU a Mortgage dated January 8, 2015 (the “Mortgage”) encumbering certain real property owned by the Debtors and located at 205 Colfax Road, Havertown, PA 19083 (the “Property”).

3. SFN is the servicer for the Mortgage and is a party in interest in this proceeding.

4. On January 16, 2018 (the “Petition Date”), the Debtors filed a voluntary petition pursuant to Chapter 13 of Title 11 of the United States Code (the “Bankruptcy Code”).

5. As of the Petition Date, SFN held a claim secured by an interest in the Property in an amount no less than \$244,024.70 (the “Claim”).¹

6. As of the Petition Date, the Debtors owed pre-petition arrears on account of the Loan totaling \$4,082.88. See Claim No. 10.

7. The Plan provides that the Debtors shall pay to SFN all “obligations falling due after the bankruptcy filing” directly to SFN on account of its Claim in the monthly amount of \$1,878.94. Plan, § 4(a).

8. However, the Plan also provides that the Debtors shall pay to SFN pre-petition arrears in an amount totaling only \$1,878.94. See id.

9. For the following reasons, SFN objects to confirmation of the Plan pursuant to Section 1324(a) of the Bankruptcy Code.

THE RELIEF REQUESTED AND THE REASONS THEREFOR

10. The Bankruptcy Code provides that a Chapter 13 plan shall be confirmed if it “complies with the provisions of this chapter and with the other applicable provisions of this title.” 11 U.S.C. § 1325(a)(1).

11. Section 1325 of the Bankruptcy Code provides that the Court shall confirm a plan if “the value, as of the effective date of the plan, of property to be distributed under the plan on account of such claim is not less than the allowed amount of such claim.” 11 U.S.C. § 1325(a)(5)(B)(ii).

¹ SFN filed a Claim evidencing the amounts due and owing under the Mortgage with the Bankruptcy Court on March 26, 2018 at Claim No. 10.

12. Although the Claim confirms that pre-petition arrears are due and owing to SFN on account of the Mortgage in the amount \$4,082.88, the Plan provides for the repayment of pre-petition arrears due and owing to SFN in the amount of \$1,878.94. See Plan, § 4(a).

13. In spite of the statutory requirement, the Plan does not provide for the cure of all outstanding pre-petition arrears due and owing to SFN with respect to the Mortgage.

14. SFN expressly reserves the right to raise further objections to confirmation of the Plan, whether at the hearing on confirmation of the Plan, or if an amended plan is proposed by the Debtors.

15. Because the Plan fails to comply with Section 1325(a)(5)(B)(ii) of the Bankruptcy Code, confirmation must be denied. See 11 U.S.C. § 1325(a)(1).

CONCLUSION

16. For the foregoing reasons, confirmation of the Plan should be denied.

WHEREFORE, State Financial Network respectfully requests the entry of an order denying confirmation of the Plan for the foregoing reasons, together with such other and further relief as is just and proper.

Respectfully submitted:

KLEHR | HARRISON | HARVEY |
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Dated: March 27, 2018